Corps Regulatory Program
District Boundaries in SWD

Albuquerque District
Tulsa District
Fort Worth District
Little Rock District
Galveston District
Regulatory Mission

- To protect the Nation’s aquatic resources, while allowing reasonable development through fair and balanced decisions.
Regulatory Authorities

- **Section 10 Rivers & Harbors Act of 1899** – Regulates all structures or work in, over or under navigable waters of the U.S.

- **Section 404 Clean Water Act** – Regulates the discharge of dredged or fill material in waters of the U.S., including wetlands

- **Section 103 of the Marine Protection, Research and Sanctuaries Act** - Regulates the transport of dredged material for the purpose dumping in the ocean
Waters of the US include:

- Traditional navigable waters - Section 10 (TNW)
- Interstate waters (IW)
- Wetlands adjacent to TNWs or IWs
- Non-navigable tributaries to TNWs that are relatively perennial (perennial), meaning at least seasonal flow (RPW)
  - Also wetlands abutting these RPW tributaries
- Other tributaries to TNWs or IWs with “significant nexus” (intermittent or ephemeral) (non-RPWs)
- Wetlands adjacent but not directly abutting jurisdictional tributaries to TNWs or IWs with “significant nexus”
- Maybe an isolated water (intrastate) with a significant nexus to interstate or foreign commerce (only with HQ approval – none approved thus far)
TNWs are waters subject to Section 10 of the Rivers and Harbors Act

- Section 10 of the Rivers & Harbors Act of 1899
- Definition in 33 CFR 329.4:
  - Waters subject to the ebb and flow of the tide
  - Waters
    - presently used,
    - used in the past, or
    - that may be susceptible for use to transport interstate or foreign commerce
  - Ex. Angelina to US 59, Brazos River to Whitney Dam, Colorado to Longhorn Dam, Neches to US 69, Sabine to Big Sandy, Sulphur to Wright Patman Dam, Trinity to Riverside Dr. in Ft. Worth
Activities Regulated by the Corps in Section 10 Waters

- **Structures in navigable waters**: piers, docks, ramps, wharves, pilings, weirs, breakwaters, bulkheads, riprap, *power and water transmission lines incl. boring* (HDD), permanently moored vessels, aids to navigation, or any other potential obstacle or obstruction.

- **Work in navigable waters**: dredging or disposal of dredged material, excavation, filling, or other modification of a navigable water.
Other Waters of the US subject to Section 404 include RPW’s like the Paluxy River
Wetlands

Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions (33 CFR 328.3 (b))
Wetland Identification and Delineation

- Based on the multi-parameter approach of the 1987 Corps of Engineers Wetlands Delineation Manual and Regional Manuals
  - Hydrology
  - Hydric Soils
  - Hydrophytic Vegetation

- Wetland Delineation Manual and Regional Manuals Purpose: provides technical criteria, field indicators, and recommended methods for identifying wetlands and delineating their upper boundaries for purposes of Section 404 of the Clean Water Act.

- Here are links to Wetlands Manual:

- National Wetland Plant list
Waters of the US do not include upland or grass-lined swales
Activities Regulated by the Corps in Section 404 Waters

- The discharge of *dredged* or *fill* material into waters of the United States is the “trigger” that requires some form of authorization under Section 404 from the U.S. Army Corps of Engineers.
Discharge of Dredged Material

- Material that is excavated or dredged from waters of the United States 33, CFR 323.2(c) - it’s all in the method and location that determines if a permit is required.
- Material excavated or dredged from waters of the U.S. and re-deposited into waters of the U.S. - 33 CFR 323.2(d)

Examples include:
- Runoff or overflow from a contained land or water disposal area
- Redeposit of dredged material other than incidental fallback from mechanized land-clearing, channelization, back fill and bedding, side-casting, temporary stockpiling
Discharge of Fill Material

- Detailed definition at 33 CFR 323.2(e)
- Material placed into waters of the U.S. where the material has the effect of
  - replacing a water with dry land; or
  - changing the bottom elevation of any portion of a water
- Examples: rock, sand, soil, road construction debris, wood chips, overburden from mining or other excavation activities, materials used to create any structure or infrastructure in waters of the U.S.
Discharge of dredged or fill material does not include:

- **Activities involving only cutting or removing vegetation so that root systems are not disturbed**
- **Incidental fallback of dredged material**
- Discharges associated with onshore processing of dredged material extracted for commercial use

- Section 404 authorization not required for incidental discharges of dredged material that would not have the effect of destroying or degrading an area of waters of the United States
With Careful Project Planning…

- By *avoiding* impacts to waters such as boring or spanning, no Section 404 permit is required (may need a Section 10)

- By *minimizing* the impacts to waters, the work may be authorized by a nationwide permit and may not require a pre-construction notification (pcn) or costly compensatory mitigation.
Maintenance Exemption

- 33 CFR 323.4 exempts certain discharges from requiring a Section 404 permit and may take care of much of your routine maintenance activities, otherwise the activities may be covered by NWP-3.
- Includes maintenance, incl. emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or approaches, and transportation structures. Maintenance does not include any mod. that changes the character, scope, or size of the original fill design.
- Emergency reconstruction of unserviceable structures should occur w/in a reasonable period of time after damage occurs in order to qualify for the exemption.
Other Exempt Activities

- Normal farming, silvicultural and ranching activities which includes construction or maintenance of on-channel farm or stock ponds, and farm, ranch, or forestry roads (reference 324.4). Farm ponds must be appropriately sized for the number of cattle. On-channel Frac ponds are not exempt!
Types of Permits

General Permits

• Nationwide Permits
• Regional General Permits
  • Similar activities resulting in minimal effects; valid for 5 years

Individual Permits

• Letters of Permission (LOP)
  • Less controversial than SPs
  • Minor impacts, coordinate with agencies/neighbors (no public notice)

• Standard Permits (SP)
  • Project-specific evaluation and authorization
  • Process involves public notice, public comment period, agency coordination
Nationwide Permits

- 52 NWPs, each with a scope of work of certain activities along with 31 general conditions (ESA, cultural and historic resources, etc.) and 10 regional conditions applicable in the Fort Worth District.
- If your project meets the scope and conditions and does not exceed the pre-construction (pcn) threshold, you may complete the project w/o written Corps authorization.

Permission Slip

Ask yourself:
1. Is it good for my customer?
2. Is it legal and ethical?
3. Is it something I am willing to be accountable for?
If so, don’t ask for permission. You already have it.

Just do it!

US Army Corps of Engineers
Some examples of the most commonly used Nationwide Permits

NWP 3: Maintenance-app avail.
NWP 12: Utility Line Activities (pipelines, power lines)-app avail.
NWP 13: Bank Stabilization (bulkheads, riprap)-app avail.
NWP 14: Linear Trans. Projects (culverts, road crossings)-app avail.
NWP 18: Minor Discharges (fill material, 25 CY max)
NWP 27: Aquatic Habitat Restoration, Estab. and Enhancement
NWP 29: Residential Developments-app avail.
NWP 31: Maintenance of Existing Flood Control Facilities
NWP 33: Temporary Construction, Access, and Dewatering
NWP 39: Commercial and Institutional Developments-app avail.

* Includes the construction of oil and gas well pads

NWP 42: Recreational Facilities
NWP 43: Stormwater Management Facilities-app avail.

* Each project is unique, not all qualify for a NWP. When in doubt, ASK.
NWP Applications to Expedite Permitting

U.S. Army Corps of Engineers (USACE)
Fort Worth District

Nationwide Permit (NWP) Pre-Construction Notification (PCN) Form
This form integrates requirements of the Nationwide Permit Program within the Fort Worth District, including General and Regional Conditions. Please consult instructions included at the end prior to completing this form.

Contents
- Description of NWP 12
  - Part I: NWP Conditions and Requirements Checklist
    - General Conditions Checklist
    - NWP 12-Specific Requirements Checklist
    - Regional Conditions Checklist
  - Part II: Project Information Form
  - Part III: Project Impacts and Mitigation Form
  - Part IV: Attachments Form
  - Instructions

DESCRIPTION OF NWP 12 – UTILITY LINE ACTIVITIES
Activities required for the construction, maintenance, repair, and removal of utility lines and associated facilities in waters of the United States (U.S.), provided the activity does not result in the loss of greater than 1/2-acre of waters of the U.S. for each single and complete project.

Utility lines: This NWP authorizes the construction, maintenance, or repair of utility lines, including outfall and intake structures, and the associated excavation, backfill, or bedding for the utility lines, in all waters of the U.S., provided there is no change in pre-construction contours. A “utility line” is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquefied, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages, and radio and television communication. The term “utility line” does not include activities that drain a water of the U.S., such as drainage tile or french drains, but it does apply to pipes conveying drainage from another area.

Material resulting from trench excavation may be temporarily sidecast into waters of the U.S. for no more than three months, provided the material is not placed in such a manner that it is dispersed by currents or other forces. The district engineer may extend the period of temporary side casting for no more than a total of 180 days, where appropriate. In wetlands, the top 6 to 12 inches of the trench should normally be backfilled with topsoil from the trench. The trench cannot be constructed or backfilled in such a manner to drain waters of the U.S. (e.g., backfilling with extensive gravel layers, creating a french drain effect). Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line crossing of each waterbody.

Utility line substations: This NWP authorizes the construction, maintenance, or expansion of substation facilities associated with a power line or utility line in non-tidal waters of the U.S., provided the activity, in combination with all other activities included in one single and complete project, does not result in the loss of greater than 1/2 acre of waters of the U.S. This NWP does not authorize discharges into non-tidal wetlands adjacent to tidal waters of the U.S. to construct, maintain, or expand substation facilities.

single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

**Single and complete non-linear project:** For non-linear projects, the term “single and complete project” is defined at 33 CFR 330.2(j) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility (see definition of “independent utility”). Single and complete non-linear projects may not be “piecemealed” to avoid the limits in an NWP authorization.

**Independent utility:** Defined as a test to determine what constitutes a single and complete non-linear project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

**16. Wild and Scenic River:**
There are no Wild and Scenic Rivers within the geographic boundaries of the Fort Worth District. Therefore, this GC does not apply.

**17. Tribal Rights:**
- a. Will the project or its operation impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights? [ ] Yes [ ] No [ ] N/A

If you answered yes to question a. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:

**18. Endangered Species (see also Box 8 in Part III):**
- a. Is the project likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or will the project directly or indirectly destroy or adversely modify the critical habitat of such species? [ ] Yes [ ] No
- b. Might the project affect any listed species or designated critical habitat? [ ] Yes [ ] No
- c. Is any listed species or designated critical habitat in the vicinity of the project? [ ] Yes [ ] No
- d. If the project “may affect” a listed species or critical habitat, has Section 7 consultation addressing the effects of the proposed activity been completed? [ ] Yes [ ] No [ ] N/A

If you answered yes to question a. or b. or c. above, or if you answered no to question d. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:

**19. Migratory Birds and Bald and Golden Eagles:**
- Does the project have the potential to impact nests, nesting sites, or rookeries of migratory birds, bald or golden eagles? [ ] Yes [ ] No [ ] N/A
If you answered yes to question above, you are responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to obtain any “take” permits required under the U.S. Fish and Wildlife Service’s regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act.

20. **Historic Properties (see also Box 9 in Part III):**
   a. Does the project have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties?
      □ Yes  □ No  □ N/A

   If you answered yes to question a. above, please explain how the project would be in compliance with this GC or be aware that the project would require an individual permit application:

21. **Discovery of Previously Unknown Remains and Artifacts:**
    If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. **Designated Critical Resource Waters:**
    a. Will the project impact critical resource waters, which include NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment?
       □ Yes  □ No

   If you answered yes to question a. above, be aware that discharges of dredged or fill material into waters of the U.S. are not authorized by NWP 12 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

23. **Mitigation (see also Box 10 in Part III):**
    a. Will the project include appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal?
       □ Yes  □ No

   If you answered no to question a. above, please include an explanation in Box 10 of why no mitigation would be necessary in order to be in compliance with this GC or be aware that the project would require an individual permit application.

24. **Safety of Impoundment Structures:**
    a. Has the impoundment structure been safely designed to comply with established state dam safety criteria or has it been designed by qualified persons?
       □ Yes  □ No  □ N/A

   If you answered yes to question a above, non-federal applicants may be required to provide documentation that the design has been independently reviewed by similarly qualified persons with appropriate modifications to ensure safety. If you answered no, please include an...
REGIONAL CONDITIONS CHECKLIST
To ensure compliance with the Regional Conditions within the Fort Worth District, in the State of Texas, in order for an authorization by a NWP to be valid, please answer the following questions (for projects in Texas only):

1. Will the project include required compensatory mitigation at a minimum one-for-one ratio for all special aquatic sites that exceed 1/10 acre and require pre-construction notification, and for all losses to streams that exceed 300 linear feet and require pre-construction notification (unless the appropriate District Engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement)?
   □ Yes   □ No   □ N/A

   If you answered no to question 1 above, be aware that the project would not be authorized by a NWP 13 and would require an individual permit application.

2. Does the project involve a discharge into habitat types that are wetlands (typically referred to as pitcher plant bogs) that are characterized by an organic surface soil layer and include vegetation such as pitcher plants (Sarracenia sp.), sundews (Drosera sp.), and sphagnum moss (Sphagnum sp.) or wetlands (typically referred to as bald cypress-tupelo swamps) comprised predominantly of bald cypress trees (Taxodium distichum) and water tupelo (Nyssa aquatica), that are occasionally or regularly flooded by fresh water with common associates including red maple (Acer rubrum), swamp privet (Ligustrum ovalifolium), green ash (Fraxinus pennsylvanica), water elm (Platanus occidentalis), liriodendron tail (Tilia americana), water mermaid weed (Proserpinaca spp.), buttonbush (Cephalanthus occidentalis), and smartweed (Polygonum spp.)? □ Yes   □ No

   If you answered yes to question 2. above, notification of the District Engineer is required in accordance with NWP GC 31, and the USACE will coordinate with other resource agencies as specified in NWP GC 31(d).

3. Is the project in the area of Caddo Lake within Texas that is designated as a “Wetland of International Importance” under the Ramsar Convention? □ Yes   □ No

   If you answered yes to question 3. above, notification of the District Engineer is required in accordance with NWP GC 31, and the USACE will coordinate with other resource agencies as specified in NWP GC 31(d).

4. a. Is the project in an area of Dallas, Denton, or Tarrant counties that is within the study area of the “Final Regional Environmental Impact Statement (EIS), Trinity River and Tributaries” (May 1986)? □ Yes   □ No

   b. If Yes, does the project meet the criteria and follow the guidelines specified in Section III of the Record of Decision for the Regional EIS, including the hydraulic impact requirements? □ Yes   □ No   □ N/A

   If you answered no to question 4b. above, be aware that the project would not be authorized by a NWP 13 and would require an individual permit application.

5. Would the proposed work result in the modification or alteration of any completed Corps of Engineers projects that are either locally or federally maintained or if work would occur within the conservation pool or flowage easement of any Corps of Engineers lake project? □ Yes   □ No
If you answered yes to question 5 above, the applicant shall notify the Fort Worth District Engineer in accordance with NWP GC 31. PCNs are not deemed complete until such a time as the Corps has made a determination relative to 33 USC Section 408, 33 CFR Part 208, Section 208.10, 33 CFR Part 320, Section 320.4. If you answered yes to question 3. above, notification of the District Engineer is required in accordance with NWP GC 31, and the USACE will coordinate with other resource agencies as specified in NWP GC 31(d)

6. Is there the risk of transferring invasive plants to or from your project site? ☐ Yes ☐ No

If you answered yes to the question above, information concerning state specific lists of invasive species and threats can be found at: http://www.invasivespeciesinfo.gov/unitedstates/tv.shtml. Best management practices can be found at Information concerning state specific lists and threats can be found at: http://www.invasivespeciesinfo.gov/unitedstates/tv.shtml. Known zebra mussel waters within can be found at: http://nas.er.usgs.gov/queries/zmbyst.asp.

7. Would your project meet the scope of work and conditions of NWP 51 or 52? ☐ Yes ☐ No

If you answered yes, the Corps will provide the PCN to the US Fish and Wildlife Service as specified in NWP General Condition 31(d)(2) for its review and comments.

To ensure compliance with the Regional Conditions within the Fort Worth District, in the State of Louisiana, in order for an authorization by a NWP to be valid, please answer the following questions (for projects in Louisiana only):

1. Does the activity cause the permanent loss of greater than 1/2 acre of seasonally inundated cypress swamp and/or cypress-tupelo swamp? ☐ Yes ☐ No

If you answered yes to question 1. above, be aware that the project would not be authorized by a NWP 12 and would require an individual permit application.

2. Does the activity cause the permanent loss of greater than 1/2 acre of pine savanna, pine flatwoods, and/or pitcher plant bogs? ☐ Yes ☐ No

If you answered yes to question 2. above, be aware that the project would not be authorized by a NWP 12 and would require an individual permit application.

3. Has the activity been determined to have an adverse impact upon a federal or state designated rookery and/or bird sanctuary? ☐ Yes ☐ No

If you answered yes to question 3. above, be aware that the project would not be authorized by a NWP 12 and would require an individual permit application.

4. Does the activity fell or impact by soil compaction any existing den or candidate den trees within areas known to be occupied by the threatened Louisiana black bear? (Existing den trees are those known to be used or have evidence of being used by a denning Louisiana black bear, regardless of size, species, or proximity to water. Candidate den trees are defined as bald cypress and/or tupelo gum with visible cavities, having a minimum diameter-at-breast-height of 36 inches, and associated with rivers, lakes, streams, bayous, sloughs, or other waterbodies.) Additionally, does the activity involve clearing within Louisiana black bear critical habitat? ☐ Yes ☐ No
Note: This specific regional condition for NWP 12 applies to work within the Louisiana Coastal Zone and/or the Outer Continental Shelf off Louisiana, and therefore does not apply in the USACE Fort Worth District. Work in these areas may require coordination with the USACE Galveston or New Orleans districts.

Additional Discussion:

### Part II: Project Information

<table>
<thead>
<tr>
<th>Box 1</th>
<th>Project Name:</th>
<th>Applicant Name</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Applicant Title</td>
<td>Applicant Company, Agency, etc.</td>
</tr>
<tr>
<td>Mailing Address</td>
<td>Applicant's internal tracking number (if any)</td>
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<tr>
<td>Work Phone with area code</td>
<td>Home Phone with area code</td>
<td>Fax #</td>
</tr>
</tbody>
</table>

Relationship of applicant to property:
- [ ] Owner
- [ ] Purchaser
- [ ] Lessee
- [ ] Other:

Application is hereby made for verification that subject regulated activities associated with subject project qualify for authorization under a USACE nationwide permit or permits as described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I hereby grant to the agency to which this application is made the right to enter the above-described location to inspect the proposed, in-progress, or completed work. I agree to start work only after all necessary permits have been received.

**Signature of applicant**

Date (mm/dd/yyyy)

<table>
<thead>
<tr>
<th>Box 2</th>
<th>Authorized Agent/Operator Name and Signature: (If an agent is acting for the applicant during the permit process)</th>
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</thead>
<tbody>
<tr>
<td>Agent/Operator Title</td>
<td>Agent/Operator Company, Agency, etc.</td>
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<td>Mailing Address</td>
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<td>E-mail Address</td>
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<td>Work Phone with area code</td>
<td>Home Phone with area code</td>
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I hereby authorize the above-named agent to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application. I understand that I am bound by the actions of my agent, and I understand that if a federal or state permit is issued, I, or my agent, must sign the permit.

Page 16 of 22  
SWF Recommended Application Form - NWP 12
**Box 5  Reason(s) for Discharge into waters of the U.S.:**

Type(s) of material being discharged and the amount of each type in cubic yards:

Total surface area (in acres) of wetlands or other waters of the U.S. to be filled:

Indicate the proposed impacts to **waters of the U.S.** in ACRES (for wetlands and impoundments) and LINEAR FEET (for rivers and streams), and identify the impact(s) as permanent and/or temporary for each waterbody type listed below. For projects with multiple single and complete crossings, the table below should indicate the cumulative totals of those single and complete crossings that require notification as outlined in Part I, GC question 31, and would not determine the threshold for whether a project qualifies for a NWP. The table below is intended as a tool to summarize impacts by resource type for planning compensatory mitigation and does not replace the summary table of single and complete crossings in Attachment D for those projects with multiple single and complete crossings.

<table>
<thead>
<tr>
<th>Waterbody Type</th>
<th>Permanent Acres</th>
<th>Permanent Linear feet</th>
<th>Temporary Acres</th>
<th>Temporary Linear feet</th>
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</thead>
<tbody>
<tr>
<td>Non-forested wetland</td>
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<tr>
<td>Forested wetland</td>
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<td>Perennial stream</td>
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<td>Intermittent stream</td>
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<td>Ephemeral stream</td>
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<td>Impoundment</td>
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<td>Other:</td>
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<td>Total:</td>
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Potential indirect and/or cumulative impacts of proposed discharge (if any):

Required drawings (see instructions):
- Vicinity map: □ Attached
- To-scale plan view drawing(s): □ Attached
- To-scale elevation and/or cross section drawing(s): □ Attached

Is any portion of the work already complete? □ Yes □ No

If yes, describe the work:

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**Box 6  Authority:** (see instructions)

Is Section 10 of the Rivers and Harbors Act for projects affecting navigable waters applicable? □ Yes □ No (see Fort Worth District Navigable Waters list)

Is Section 404 of the Clean Water Act applicable? □ Yes □ No

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**Box 7  Larger Plan of Development:**

Is the discharge of fill or dredged material for which Section 10/404 authorization is sought intended for a utility line project which is part of a larger plan of development? □ Yes □ No (If yes, please provide the information in the remainder of Box 7)
### Box 10 Proposed Conceptual Mitigation Plan Summary (see instructions)

Measures taken to avoid and minimize impacts to waters of the U.S. (if any):

Applicant proposes combination of one or more of the following mitigation types:
- Mitigation Bank
- On-site
- Off-site (Number of sites: ___)
- None

Applicant proposes to purchase mitigation bank credits:  
- Yes
- No

Mitigation Bank Name:

Number of Credits:

Indicate in ACRES (for wetlands and impoundments) and LINEAR FEET (for rivers and streams) the total quantity of waters of the U.S. proposed to be created, restored, enhanced, and/or preserved for purposes of providing compensatory mitigation. Indicate mitigation site type (on- or off-site) and number. Indicate waterbody type (non-forested wetland, forested wetland, perennial stream, intermittent stream, ephemeral stream, impoundment, other) or non-jurisdictional (uplands):

<table>
<thead>
<tr>
<th>Mitigation Site Type and Number</th>
<th>Waterbody Type</th>
<th>Created</th>
<th>Restored</th>
<th>Enhanced</th>
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<td>Totals</td>
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For uplands, please indicate if designed as an upland buffer.

Summary of Mitigation Work Plan (Describe the mitigation activities listed in the table above):

If no mitigation is proposed, provide a detailed explanation of why no mitigation would be necessary to ensure that adverse effects on the aquatic environment are minimal:

Has a conceptual mitigation plan been prepared in accordance with the USACE regulations and guidelines?
- Yes, Attached
- No

Mitigation site(s) latitude & longitude (Decimal Degrees):

USGS Quad map name(s):

Other location descriptions, if known:

Directions to the mitigation location(s):
Part IV: Attachments

A. Delineation of Waters of the U.S., Including Wetlands
B. Color Photographs
C. Summary Table of Single and Complete Crossings
D. Required Drawings/Figures
E. Threatened or Endangered Species Reports and/or Letters
F. Historic Properties and Cultural Resources Reports and/or Letters
G. Conceptual Mitigation Plan
H. Other:

Included

End of Form
## Attachment D: Table of Waters of the U.S. Impacted by the Proposed Project

<table>
<thead>
<tr>
<th>Waterbody ID¹</th>
<th>Latitude and Longitude (Decimal Degrees)</th>
<th>Resource Type²</th>
<th>Linear Feet in Project Area</th>
<th>Acres in Project Area</th>
<th>Impact Type³</th>
<th>Linear Feet of Impact</th>
<th>Acres of Impact</th>
<th>Cubic Yards of Material to be Discharged</th>
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</table>

¹ Waterbody ID may be the name of a feature or an assigned label such as “W-1” for a wetland.


³ Impact Types: D/P – Direct* and Permanent, D/T – Direct and Temporary, I/P – Indirect** and Permanent, I/T – Indirect and Temporary

* Direct impacts are here defined as those adverse affects caused by the proposed activity, such as discharge or excavation.

** Indirect impacts are here defined as those adverse affects caused subsequent to the proposed activity, such as flooding or effects of drainage on adjacent waters of the U.S.
Linear vs. Non-linear Projects

- **NWPs authorize single and complete activities**
- All losses of waters of U.S. associated with a single and complete project would be considered when determining whether acreage limit or pre-construction notification threshold is exceeded
- Linear Projects:
  - Constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point
  - **Each separate and distant crossing is a separate single and complete project (in most cases)**
  - Cumulative effects of overall utility line or road are evaluated to determine if adverse cumulative effects on aquatic environment are more than minimal and therefore do not qualify for NWP
- Non-linear Projects: Total project proposed is accomplished by one owner/developer/partnership. Must have independent use (i.e. stand-alone project)
Permit Area and 106 APE*

*APE = Area of Potential Effect
Permit Area and 106 APE

- Substantial Federal Control (Corps permit + National Wildlife Refuge Land)
- Substantial Impacts (Waters of U.S., Endangered Species, Cultural Resources)
- 1 Permit Area
NWP-3 Maintenance

- Covers (a) the repair, rehab, or replacement of previously authorized, currently serviceable structure or fill... *provided that the structure is not to be put to uses differing from those specified in the original permit, or most recent modification.*

- allows for minor changes, also authorizes the repair, rehab, or replacement due to changes in material, construction techniques, etc.

- (b) Authorizes the removal of accumulated sediments and debris in the vicinity of existing structures, (bridges, culverted road crossings including outfall and intake structures- and/or the placement of new or additional riprap to protect the structure...but cannot extend farther than 200 feet in any direction from the structure (200 ft. limit does not apply to maintenance dredging to remove accumulated sediments)(pcn).

- (c) Authorizes temporary structures, fills, and work necessary to conduct maintenance activities. Temporary fills must be removed and the area returned to preconstruction elevations.
NWP-12 Utility Line Activities

- Activities associated for the construction, maintenance, repair and removal of utility lines and associated facilities including outfall and intake structures, and the associated excavation, backfill, or bedding for the utility lines provided the activity does not result in a loss of greater than ½-acre for each single and complete project.

- Includes utility line substations, foundations for overhead utility line towers, poles, and access roads.

- Pcn req.: 1) involves mechanized land-clearing in forested wetlands; 2) Section 10 permit req.; 3) utility line in waters of US exceeds 500 LF; 4) runs parallel w/in jurisdictional area; 5) results in loss of >1/10 ac.; 6) perm. roads (above grade) >500 LF; 7) perm. roads on waters constructed w/ impervious materials.
NWP-13 Bank Stabilization

- Authorizes bank stabilization activities necessary for erosion prevention, provided the activity meets all of the following criteria:
  - (a) no material placed in excess of the min. amount needed for erosion protection;
  - (b) activity is no more than 500 feet in length, unless waived by the district engineer;
  - (c) will not exceed an avg. of one cubic yard/running foot placed below the plane of the OHWM, unless waived by the district eng.;
  - (d) does not involve the discharges of dredged or fill material into special aquatic sites, unless waived by the district eng.;
  - (e) no material is of a type or is placed in any location or manner, that will impair surface water flow;
  - (f) no material is placed in a manner that will be eroded by normal or expected high flows;
  - (g) the activity is not stream channelization
NWP-13 Bank Stabilization cont.

- PCN needed if the work;
- 1) is in a special aquatic site; or
- 2) is in excess of 500 LF; or
- 3) involves the discharge of greater than an average of one CY/running foot along the bank below the plane of the ordinary high water mark or high tide line.
**NWP-14 Linear Transportation Projects**

- Activities req. for the construction, expansion, modification, or improvement of linear transportation projects (roads, highways, railways, trails, runways, and taxiways).
- Does not cause the loss of greater than ½ acre in waters of the US, and 1/3 acre in tidal waters.
- Stream channel modification and bank stabilization limited to the minimum amount necessary to protect the project and must be in the vicinity of the project.
- Authorizes wide range of temporary structures, fills, and work necessary to construct the project (coffer dams, access roads, etc). All temp fills must be removed and returned to pre-const. elevations.
- PCN at >1/10-acre impact and discharges into special aquatic sites
NWP-18 Minor Discharges

- Minor discharges of dredged or fill material into all waters of the US provided the activity meets all of the following criteria;
  - (a) quantity of discharged material and the volume excavated does not exceed 25 CY below the plane of the OHWM;
  - (b) will not cause the loss of more than 1/10 acre of waters of the US.; and
  - (c) discharge is not placed for the purpose of stream diversion.
- PCN required if ; (1) the discharge or volume of the area excavated exceeds 10 CY below the OHWM or high tide line, or (2) the discharge is in a special aquatic site, including wetlands
NWP-27 Aquatic Habitat Restoration, Establishment, and Enhancement

- Removal of accumulated sediments; installation, removal, and maintenance of small water control structures, dikes, and berms and discharges of fill material to restore appropriate stream channel configurations, installation of current deflectors, in-stream habitat structures, removal of existing drainage structures, establishment of native vegetation, etc.
NWP-33 Temporary Construction, Access, and Dewatering

- Temporary structures, work, and discharges, necessary for construction activities or access fills or dewatering of construction sites, provided the associated primary activity is authorized by the USACE or CG.
- PCN must include a restoration plan (pcn req.)
- *Good for projects that have already been authorized and now need additional access by the contractor*
NWP- 39 Commercial and Institutional Developments

- Discharges into waters of the US for the construction or expansion of commercial and institutional building foundations and pads, including roads, parking lots, utility lines, storm water mgt. facilities and recreational facilities. Includes retail stores, restaurants, business parks, etc.

- Includes the construction of oil and gas well pads

- Not to exceed ½-acre loss of waters including the loss of no more than 300 LF of streambed, unless for intermittent and ephemeral stream beds this 300 LF is waived in writing (pcn req.).
NWP-42 Recreational Facilities

- Discharges into waters of the US for the construction or expansion of recreational facilities including playing fields (football fields, baseball fields), basketball courts, tennis courts, hiking and bike path, golf courses, horse paths and nature centers, support facilities (maintenance storage buildings, and stables), etc.

- Not to exceed ½-acre loss of waters including the loss of no more than 300 LF of streambed, unless for intermittent and ephemeral stream beds this 300 LF is waived in writing (pcn req.).
NWP-43 Stormwater Mgt. Facilities

- Discharges into waters of the US for the construction of stormwater mgt. facilities, stormwater detention basins, retention basins and other stormwater mgt. facilities; the construction of water control structures, outfall structures and emergency spillway; and the construction of low impact development integrated mgt. features such as bio-retention facilities, veg. filter strips etc. Also includes the maintenance of stormwater facilities.

- Does not exceed ½-acre loss of waters including the loss of no more than 300 LF of streambed, unless for intermittent and ephemeral stream beds this 300 LF is waived in writing (pcn req.).
Regional General Permits

- **RGP-8 Boat Ramps and Minor Facilities** - scope includes boat ramp construction and minor activities including boat docks, boathouses, boat stalls, piers, fish attractors.

- **RGP-11 Exploration and Production Wells** - construction of drilling and production pads, reserve and mud pits, access roads, coffer dams and staging areas.
Letters of Permission

- For minor work that has no significant individual or cumulative environmental impact and no appreciable opposition
- Abbreviated evaluation procedure
  - Coordination with federal and state fish and wildlife agencies
  - Public interest evaluation, but no public notice
- LOP procedures may not have expiration dates
- Two Section 404 LOP procedures currently in place in Texas (both statewide):
  - **LOP-1:** Activities at Certain Reservoirs and Federal and State Sponsored Projects
  - **LOP-2:** Excavation Activities
Standard Individual Permits

- When an activity cannot be authorized by general permit or LOP, a standard individual permit is required.

- Must submit application form (Eng Form 4345) or template form with information about the proposed activity.
Corps receives application, conducts an initial review and assigns it to a Project Manager (PM)

- OMBIL Regulatory Management (ORM) data entered into database
- PM reviews application for completeness, as defined by Regulations 325.1(d)(10)
- Is the application complete?
  - YES: Does the project require coordination?
  - NO: PM writes a Request for Additional Information (RAI) within 15 days of receipt of application

- PM receives a reply to the RAI
  - YES: Does the project require coordination?
    - YES: Compile coordination document (such as a Public Notice or Letter of Permission Coordination within 15 days of receipt of complete application) also compile Endangered Species Consultation, and/or Essential Fisheries Habitat Coordination, Historic Resource Coordination
    - NO: PM compiles the decision recommendation document (such as the Environmental Assessment – Statement of Finding document or the Nationwide Permit Memorandum For Record) for permit decision
  - NO: PM considers the application withdrawn

- Any objections, adverse comments or issues?
  - NO: Public Hearing?
    - NO: PM compiles a recommendation for denial of a Department of the Army permit
      - YES: Resolve the concerns/issues
        - NO: Can concerns/issues be resolved through additional coordination or project revisions?
          - NO: Rewrite
            - NO: Does management accept the recommendation?
              - YES: Permit issuance
              - NO: Permit denial
            - YES: Rewrite
              - NO: Permit denial
          - YES: Resolve the concerns/issues
            - NO: Can concerns/issues be resolved through additional coordination or project revisions?
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                                                            - YES: Permit issuance
                                                            - NO: Permit denial
                                                                ...
Public Interest Review Factors

- Conservation
- Economics
- Aesthetics
- General Environmental Concerns
- Wetlands
- Historic Properties
- Fish and Wildlife Values
- Flood Hazards
- Floodplain Values
- Land Use

- Navigation
- Shore Erosion and Accretion
- Recreation
- Water Supply and Conservation
- Water Quality
- Energy Needs
- Safety
- Food and Fiber Production
- Mineral Needs
- Property Ownership
CWA 404(b)(1) Guidelines

- Substantive Environmental Criteria
  - No discharge shall be permitted if there is a practicable alternative that would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences (40 CFR 320.10)

  - LEDPA – Least Environmentally Damaging Practicable Alternative
    - Practicable in terms of cost, logistics & existing technology

  - FOCUS of our Guidelines analysis is impacts to aquatic resources/special aquatic sites
Compensatory Mitigation Rule

- Published April 10, 2008, to improve the planning, implementation, and mgt. of mitigation projects

- **Goal** – level playing field (Mitigation Banks, permittee, ILFs) to the maximum extent practicable

- **Performance Standards** – ecologically-driven, equivalent/effective standards, best available science

- **Compliance** – increase compliance visits, establish enforceable success criteria, prescribed monitoring reports

- **Mitigation Sequence Preserved** - avoid, minimize, compensate for unavoidable impacts and lost aquatic functions

- Does not change *when* mitigation is required
- Does change *where* and *how*
THE TEXAS RAPID ASSESSMENT METHOD (TXRAM)
Wetlands and Streams Modules

Final Draft for Public Review

U.S. Army Corps of Engineers - Regulatory Branch
For use within the Fort Worth and Tulsa Districts in the State of Texas

October 2010
Tips for Streamlining the Corps of Engineers Permitting Process

- **AVOID, MINIMIZE, COMPENSATE** – ensure that protection of the aquatic environment is integrated into your planning process to the maximum extent practicable
- Develop a good environmental assessment for every case
- Get to know the personnel in the district(s) you work with and become familiar with their procedures
- Think like the Corps and other natural resource agencies on protecting the aquatic environment
- Conduct pre-application coordination, when appropriate
- Read guidance/instructions carefully, CALL if you have questions
Tips for Streamlining the Corps of Engineers Permitting Process

- Provide detail commensurate with the complexity of the case, but always **SHOW YOUR WORK**
- Use straightforward, clearly-reproducible drawings with complete legends
- Check submittals for accuracy
  - Consistency among sections, including figures, math
- More = Better? Not necessarily
- Make sure your submittals would be clear to an uninformed third-party (don’t make assumptions)
- Develop good well-thought-out plans, and follow them
- Seek the advice of a good environmental consultant, when appropriate
Questions?
Corps Regulatory Program Information

- Fort Worth District Regulatory Home Page: http://www.swf.usace.army.mil/regulatory
- Fort Worth District (817) 886-1731
- David Madden (817) 886-1741 david.e.madden@usace.army.mil
- Skipper Scott (817) 886-1742 skipper.scott@usace.army.mil


- If this program assisted you, please help us improve our services by completing the survey on the following website: http://per2.nwp.usace.army.mil/survey.html